
CHAPTER 6: EMPLOYEE RIGHTS AND RESPONSIBILITIES (ER&R)

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CHAPTER 6: EMPLOYEE RIGHTS AND RESPONSIBILITIES**1. EMPLOYEE INVOLVEMENT AND EMPOWERMENT**

When employees become an integral part of the safety process, meaningful and lasting changes occur. Employees develop a sense of responsibility and pride in the success of the overall program, increasing safety and health awareness which affects not only themselves, but coworkers and workplace visitors as well.

While it is ultimately management's responsibility to ensure worker safety and health, employee involvement is the key to making it work. Line employees have the most to contribute to their own safety by their direct involvement in OSH protection efforts. Line personnel are in immediate contact with hazardous chemicals and hazardous situations. This worksite hands-on knowledge enables them to participate in hazard identification and problem-solving efforts.

An effective safety and health program cannot succeed without the active participation of all organizational elements. DOE encourages employee involvement in developing the structure and participating in the operation of safety and health programs.

2. DIRECT AND INDIRECT COMMUNICATION

Employee involvement may take many forms. Methods used to encourage and sustain this involvement vary from facility to facility. However, two basic elements are necessary to increase the probability of success—unrestricted lines of communication and management action to address employee concerns.

Lines of communication may be direct or indirect. Direct communication means follow:

- standard operating procedures and open-door policy
- open meetings
- committee participation and work teams
- worksite inspections participation, hazard analysis, and control and design
- safety and health procedures development and design
- accident/incident investigations participation
- safety and health training development, review, and presentation
- one-on-one discussions with the immediate supervisor

Means of indirect communication may include safety suggestion boxes or an electronic mail (e-mail) system.

**Union/
Committee
Participation**

Employee involvement takes many forms, such as participation in:

- union/management safety and health committees
- specific-function committees

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- quality circles
- site inspections
- safety observer roles
- routine hazard analysis assistance
- site safety requirements and standard operating procedures development or revisions

Training

Qualified employees who are trainers or mentors are valuable resources.

Investigations

Employees should be encouraged to participate in accident/incident investigations. This will increase their knowledge of and sensitivity to safety and health issues and hazards, sharpen their observational skills, and build trust between managers and employees.

CHAPTER 6: EMPLOYEE RIGHTS AND RESPONSIBILITIES**3. EMPLOYEE BILL OF RIGHTS**

All DOE Federal employees are responsible for maintaining safe and healthful working conditions. Outlined below are employees' rights and responsibilities.

Workers have the right to:

- Accompany DOE worker protection personnel during workplace inspections.
- Participate in FEOSH activities during official time.
- Express worker protection concerns.
- Decline to perform an assigned task because of a reasonable belief that, under the circumstances, the task poses an imminent risk of death or serious bodily harm to that individual, along with a reasonable belief that there is insufficient time to seek effective redress through the normal hazard reporting and abatement procedures.
- Access DOE worker protection publications, DOE-prescribed standards, and the organization's own worker protection standards or procedures applicable to the workplace.
- Receive notification when monitoring results indicate they were overexposed to hazardous materials.
- Receive results of inspections and accident investigations upon request.
 - Have one or more employee representatives participate in briefings and the walk-around phase of oversight inspections.
 - Report hazards without fear of reprisal.
 - Refuse to work when faced with an imminent danger of death or serious injury.
 - File a discrimination complaint if punished for reporting hazards or refusing to work when faced with an imminent danger condition.
 - Request information about safety and health hazards in the workplace, precautions that may be taken, and procedures to be followed if the worker is involved in an accident or is exposed to toxic substances.
 - Receive appropriate safety equipment and/or PPE, as well as appropriate training in its selection, use, cleaning, and disposal.
 - Access relevant exposure and medical records.
 - Review (or have an authorized representative review) occupational injuries summary information.
 - Receive notification and provide input when an organization applies for a worker protection standard exemption or when an alternative worker protection standard is written.
 - Receive notification when a worker protection standard or alternative worker protection standard is approved.

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Note: Employee participation must be consistent with acceptable practices for labor/management relations (e.g., union official or bargaining unit representative participation in compliance inspections).

4. RESPONSIBILITIES

Along with rights come certain responsibilities. To ensure that workers participate in and are protected by FEOSH activities, managers, supervisors, FEOSH POCs, employee representatives, and the workers themselves are responsible for FEOSH program aspects.

FEOSH POC

- Administer FEOSH program for office of responsibility.
- Ensure that required workplace inspections are conducted.
- Investigate and document employee concerns and reports of unsafe/unhealthful working conditions.
- Facilitate prompt abatement of OSH hazards and monitor progress.
- Encourage employee participation and involvement.
- Provide regular feedback to management concerning OSH.
- Ensure recordkeeping.

Managers/ Supervisors

- Lead through actions.
- Encourage employee involvement.
- Take immediate and meaningful action to learn about and address employee concerns.
- Encourage employees to speak up.
- Listen to and seriously approach all concerns and suggestions.

See Chapter 4, Section 2 for supervisor responsibilities.

Employee Representatives

- Represent designated DOE Federal employees in all safety and health matters.
- Provide information to designated employees concerning their right to a safe and healthful workplace.
- Notify FEOSH POCs of any reported concerns.

Employees

- Learn, understand, and comply with OSHA requirements and DOE safety and health policies at all times.
- Review and ask questions if you do not understand the safety and health educational materials posted/distributed.
- Be proactive, safety-conscious, and individually responsible by keeping yourself and fellow employees free from mishaps.

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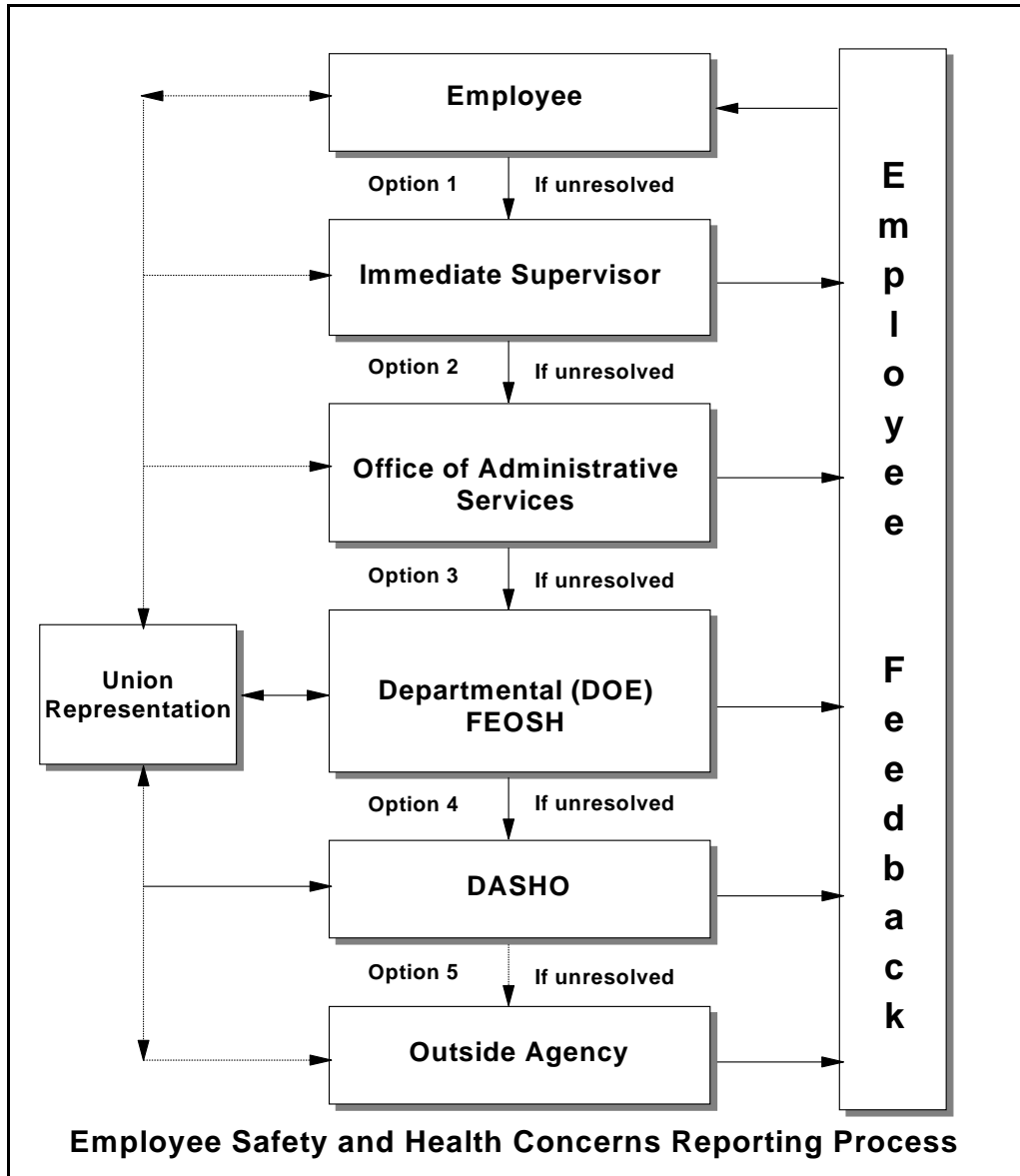
- Be certain that you completely understand instructions before starting work and avoid “shortcuts” from safe work procedures.
- If any doubt exists about the safety and/or healthfulness of doing a job, stop and get instructions from your supervisor or FEOSH POC before continuing the work.
- Use appropriate safety equipment and PPE in accordance with site procedures and training.
- Offer safety and health suggestions to your coworkers or supervisors whenever you feel they may reduce worker risk.
- Support your supervisors, safety professionals, or other fellow employees in their safety and health program roles.
- Understand your responsibilities for each arising emergency situation.
- Immediately report suspected safety and health hazards and concerns found in the workplace to the supervisor.
- Report to your supervisor any site degradation or personal physical condition that may affect the safe performance of your or coworkers’ duties.
- Immediately report suspected workplace safety and health hazards, concerns, and violations to your supervisor (and union representative, if necessary and appropriate).

**Performance
Review
Parameters**

Participation in the FEOSH program is one parameter that may be used to measure an employee’s performance. To give employees useful performance feedback in safety and health matters, criteria for performance should be developed. Such criteria may be similar to those developed for supervisors, as discussed in Chapter 4.

CHAPTER 6: EMPLOYEE RIGHTS AND RESPONSIBILITIES**5. HAZARD REPORTING SYSTEMS**

Employees play a key role in discovering and controlling hazards that may occur or already exist in the workplace. Daily contact and hands-on responsibility give them a unique perspective on work procedures and conditions. A reliable system for employees to report hazardous work conditions should be established to increase the effectiveness of the organization's safety and health program (see the following flowchart for an example).



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Several acceptable employee hazard reporting systems are currently used by DOE and the private sector. More common systems include oral reports to supervisors and union representatives, suggestion programs, maintenance work orders, and written forms providing anonymity. Many sites use a combination of some or all of these systems.

Oral Reports

At all worksites, employee oral reports to supervisors, union representatives, and safety and health POCs are encouraged. If the supervisor is properly trained and understands the scope of his/her responsibility for the workers' safety and health, informal oral reports are a natural occurrence. For valid concerns, the supervisor has the additional responsibility of correcting the hazard, requesting correction by maintenance, or requesting facility management assistance. Facility managers may, in turn, request help from the DOE FEOSH Program Office.

Most work sites encourage this type of reporting. Used alone, however, it does not provide comprehensive, long-term hazard correction tracking and trending. See Chapter 9, Section 10, "Employee Concern Reports" for additional information on employee hazard reporting systems.

Suggestion Programs

The most frequently used written system is a suggestion program where employees are encouraged to make safety and health suggestions. This approach encourages employees to use their imagination when suggesting safer or more healthful work practices as well as reporting unsafe conditions and acts. If these programs are being used to report safety and health hazards, management must ensure that collection points are checked several times a day and suggestions are read at the time of collection to ensure that hazards are corrected in a timely manner.

If the suggestion program is used as the sole means of reporting hazards or reporting them in writing, management must ensure that employees understand how to use the system for all types of safety and health reporting, not just presenting ideas.

"STOP" Program

Many medium or large worksites develop or buy an employee hazards-reporting system such as "STOP," developed by DuPont. Typical STOP programs include a format for training employees in basic hazard recognition. Employees write unsafe conditions and practices on cards, which are usually forwarded to their supervisor or manager for action and the safety department for checking and tracking valid hazard corrections.

Maintenance Work Order

For unsafe conditions, maintenance personnel normally will have to be called to make the proper correction. Contact your appropriate maintenance dispatcher for specific instructions and procedures; coordinate with your supervisor.

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Note: This system should be used by employees reporting hazards only if there is a special high-priority code for maintenance safety and health work orders. In doing so, the maintenance supervisor is required to give them a higher priority than production improvement maintenance. Copies should be immediately carried to the safety department (or site safety and health professional) so that corrections can be tracked.

None of these hazard reporting systems, by themselves, are expected to stand alone in ensuring that hazards are corrected. For example, the maintenance work order system may do an excellent job of correcting hazardous physical conditions. Hazardous work practices, however, may need to be addressed via another reporting mechanism. Employees should be encouraged to use whatever reporting mechanism (or combination) makes the most sense and allows for imaginative approaches in improving working conditions, work practices, procedures, etc.

**Written
Forms**

While some of the systems described above include writing on forms, the best written system for your worksite may be one that you devise for employee hazard reporting. **Appendix 6-2** shows one example. Anonymity, when desired, may be arranged by asking the reporting employee to not sign his/her name or give the filled-out form directly to the supervisor. Responses to anonymous reports may be provided by posting a typed response on a bulletin board in the area mentioned in the report.

**Policy for
Reporting
Unsafe/
Unhealthful
Work
Conditions**

Remember that, in all of these aspects discussed above, some variations will work better for your site than others. Make sure your policy

- Encourages employees to report hazards.
- Is well-known and understood.
- Protects reporting employees from harassment.
- Responds appropriately in a timely manner.
- Tracks all hazards to correction.

Use the hazard information to revise your hazard inventory and/or improve your hazard prevention program.

6. REPRISAL PREVENTION PROGRAMS

One basic right of DOE Federal employees is to report hazardous conditions or practices without reprisal. The Department's policy is that no DOE employee shall be subject to restraint, interference, coercion, reprisal, or other discrimination by participating in the DOE FEOSH Program, including filing a report of unsafe or unhealthy working conditions or exercising other rights afforded by Section 19 of the OSH Act, Executive Order 12196, and 29 CFR Part 1960, Subpart G.

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If an employee believes that he or she is experiencing a safety and health reprisal, the allegations should be handled through Departmental channels or the current DOE collective bargaining unit agreement, as outlined on the DOE FEOSH Poster (**Appendix 6-3**), with technical assistance from the appropriate safety office or the DOE FEOSH Program Office. At each site, the New Employee Orientation informs employees of appropriate procedures to follow when voicing concerns and protecting themselves against reprisal. **Appendix 6-1** provides a sample orientation briefing and talking points.

Any employee or bargaining unit representative who believes that an act of reprisal or discrimination has been committed may file a complaint under grievance procedures described in DOE Order 3771.1, or the appropriate Article contained in the DOE/employee representative Collective Bargaining Agreement.

Any act of reprisal—however slight or subtle against any employee who has reported a safety and health concern—is a “prohibited personnel practice.” A list of proper “personnel actions” is contained in Title 5 U.S.C., 2302 (a)(2)(A). “Prohibited personnel actions” are listed in Title 5 U.S.C., 2302 (b). Any personnel action would become “prohibited” if issued or authorized as reprisal or punishment for whistleblowing or exercising a protected right. Such actions would include significant changes in employee duties, responsibilities, or working conditions when unrelated to merit or position requirements.

Any employee who believes that a reprisal or discrimination act has been committed may file a complaint under grievance procedures described in DOE Order 3771.1, or the appropriate Article contained in the DOE/employee representative Collective Bargaining Agreement. An employee representative grievance must be filed within 15 workdays of becoming aware of the act or occurrence. When such grievances are carried through an arbitration hearing, an arbitrator can order a stay of any “prohibited personnel practice” (reprisal) and include discipline to the supervisor involved (P.L. 103-424, October 29, 1994). DOE Order 3750.1 provides guidance on discipline for violations of Title 5 U.S.C., 2302. □

APPENDIX 6-1

FEOSH Rights and Responsibilities Briefing

**FEDERAL EMPLOYEE
OCCUPATIONAL SAFETY AND
HEALTH (FEOSH) PROGRAM**

RIGHTS AND RESPONSIBILITIES BRIEFING

APPENDIX 6-1

FEOSH Rights and Responsibilities Briefing

- **Comply with standards.**
- **Establish complaint procedures.**
- **Provide, maintain, and require PPE and safety equipment.**

MANAGEMENT RESPONSIBILITIES

- Comply with OSHA standards.
- Establish employee concern procedures (as handled locally).
- Ensure that PPE is provided and used.

APPENDIX 6-1

FEOSH Rights and Responsibilities Briefing

- **Annually inspect workplaces.**
- **Establish discrimination procedures.**
- **Post unsafe or unhealthful conditions.**

- Ensure workplaces are inspected.
- Annually conduct formal inspections (who performs?).
- Perform unannounced inspections (who performs?).
- Supervisors perform quarterly inspections (optional).
- Employees have a right to accompany inspectors.
- Assure that employees are not subject to restraint, interference, coercion, discrimination, or reprisal by any supervisor or management official by virtue of participating in the FEOSH Program. As already stated, this includes the filing of a report of unsafe or unhealthful working conditions.
- Post notices of unsafe or unhealthful working conditions found during the inspection within 15 days following the inspection and 30 days for health items.

APPENDIX 6-1

FEOSH Rights and Responsibilities Briefing

- **Assure prompt abatement.**
 - **Inform employees of abatement plan.**
 - **Correct imminent danger immediately.**
-
- Assure prompt abatement of hazardous conditions. Imminent danger conditions must be corrected immediately. Those that cannot be corrected within 30 days must have an abatement plan.

APPENDIX 6-1

FEOSH Rights and Responsibilities Briefing

- **Develop a management information system.**
- **Post annual summary.**
- **Conduct employee training.**

- Retain (organization) records of occupational accidents, injuries, illnesses, and their causes for 5 years.
- Post (organization) an annual injuries and illnesses summary, no later than February 1. Post for a minimum of 30 days.
- Conduct safety and health training for top management, supervisors, safety and health personnel, safety and health committee members, employee representatives, and all other employees. Annually provide orientation training for new employees and refresher briefings on employee rights and responsibilities.

APPENDIX 6-1

FEOSH Rights and Responsibilities Briefing

- **Comply with standards.**
- **Comply with policies and directives.**
- **Use PPE and safety equipment.**

- Comply with applicable OSHA standards or approved DOE alternate standards, 29 CFR Parts 1910 and 1926.
- Comply with DOE policies and directives relative to the safety and health program:
 - DOE Order 440.1
 - (local supplement if used)
- Use DOE personal protective and safety equipment.

APPENDIX 6-1

FEOSH Rights and Responsibilities Briefing

- **Participate in safety and health programs.**
- **Authorize official time.**
- **Access standards, statistics, and program procedures.**

- Participate in the DOE safety and health program. Authorize official time for activity participation as stated in Executive Order 12196, 29 CFR Part 1960, and the DOE safety and health program:
 - safety committees
 - inspections
 - training programs
- Access (employees) DOE standards, injury and illness statistics, and safety and health program procedures:
 - Orders are in respective division
 - Standards located in (identify location)

APPENDIX 6-1

FEOSH Rights and Responsibilities Briefing

- **Present comments on alternate standards.**
- **Report and request DOE and OSHA inspections.**

- Any employee may report any unsafe or unhealthful working conditions, or suspected violations that he/she believes may exist in the workplace. Conditions may be reported orally or in writing. The reporter may remain anonymous.
- Initially report to supervisor.
- Report safety issues to (fill in, where to report).
- Call the Employee Concerns Hotline if you are not satisfied with these mechanisms. The number will be posted throughout (the organization).

APPENDIX 6-1

FEOSH Rights and Responsibilities Briefing

INJURY/ILLNESS REPORTING

- **forms used**
- **medical treatment**

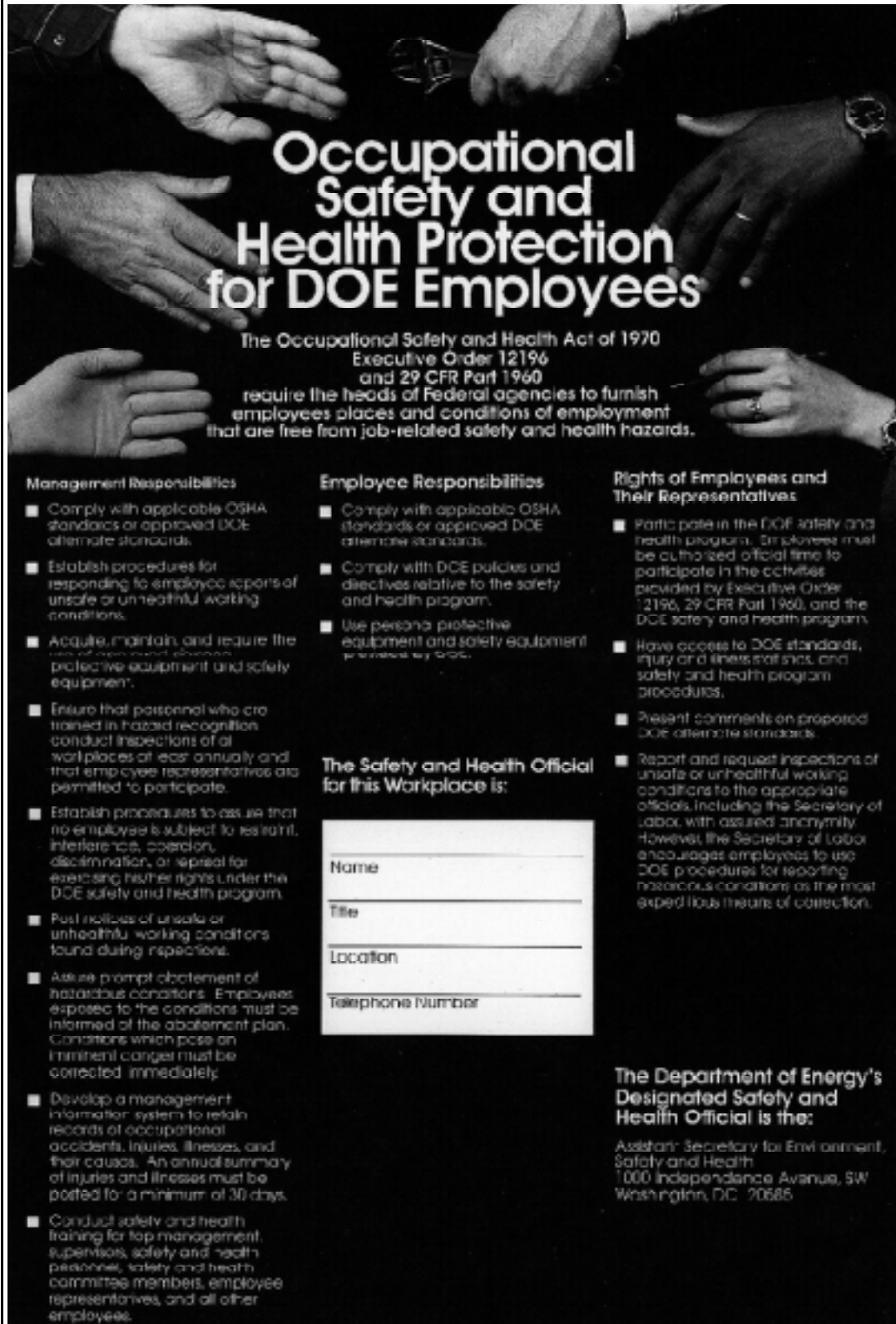
- Report to immediate supervisor, who will report to (organization).
- Obtain a CA-16 form from supervisor to authorize required treatment. (DISPLAY FORM.)
- File a CA-1 form for all injuries and obtain receipt from supervisor. Supervisor forwards the form to (organization). (DISPLAY FORM.)
- Fill out other CA forms depending on the severity of the injury or illness, the number of days you are unable to work, disability compensation, etc. (Organization) is available to assist you in these matters.

APPENDIX 6-2

SAMPLE FORM TO REPORT UNSAFE/UNHEALTHFUL WORKING CONDITIONS

DOE REPORT OF UNSAFE/UNHEALTHFUL HAZARD CONDITIONS			
MEMORANDUM FOR ORG:			
<input type="checkbox"/> 1st Level Supervisor <input type="checkbox"/> Organizational Safety Inspector <input type="checkbox"/> Safety & Occupational Health Manager			
FROM	TITLE		
TO	DATE OBSERVED	ANONYMITY REQUESTED?	
LOCATION OF HAZARD/ CONDITION OBSERVED			
NATURE OF CONCERN			
NAME AND TITLE OF RECEIVING OFFICIAL	PHONE NUMBER	PRIORITY	EMERGENCY/ NONEMERGENCY
ACTION BY SUPERVISOR/SAFETY OFFICER			
ACTION TAKEN			
DATE HAZARD CORRECTED	FOLLOW UP ACTION SUGGESTED		
OFFICIAL SIGNATURE			

APPENDIX 6-3



Occupational Safety and Health Protection for DOE Employees

The Occupational Safety and Health Act of 1970 Executive Order 12196 and 29 CFR Part 1960 require the heads of Federal agencies to furnish employees places and conditions of employment that are free from job-related safety and health hazards.

<p>Management Responsibilities</p> <ul style="list-style-type: none"> ■ Comply with applicable OSHA standards or approved DOE alternate standards. ■ Establish procedures for responding to employee reports of unsafe or unhealthful working conditions. ■ Acquire, maintain, and require the use of personal protective equipment and safety equipment. ■ Ensure that personnel who are trained in hazard recognition conduct inspections of all workplaces at least annually and that employee representatives are permitted to participate. ■ Establish procedures to assure that no employee is subject to reprisal, interference, coercion, discrimination, or reprisal for exercising his/her rights under the DOE safety and health program. ■ Post notices of unsafe or unhealthful working conditions found during inspections. ■ Assure prompt abatement of hazardous conditions. Employees exposed to the conditions must be informed of the abatement plan. Conditions which pose an imminent danger must be corrected immediately. ■ Develop a management information system to retain records of occupational accidents, injuries, illnesses, and their causes. An annual summary of injuries and illnesses must be posted for a minimum of 30 days. ■ Conduct safety and health training for top management, supervisors, safety and health personnel, safety and health committee members, employee representatives, and all other employees. 	<p>Employee Responsibilities</p> <ul style="list-style-type: none"> ■ Comply with applicable OSHA standards or approved DOE alternate standards. ■ Comply with DOE policies and directives relative to the safety and health program. ■ Use personal protective equipment and safety equipment properly, e.g., PPE. 	<p>Rights of Employees and Their Representatives</p> <ul style="list-style-type: none"> ■ Participate in the DOE safety and health program. Employees must be authorized official time to participate in the activities provided by Executive Order 12196, 29 CFR Part 1960, and the DOE safety and health program. ■ Have access to DOE standards, injury and illness statistics, and safety and health program procedures. ■ Present comments on proposed DOE alternate standards. ■ Report and request inspections of unsafe or unhealthful working conditions to the appropriate officials, including the Secretary of Labor, with assured anonymity. However, the Secretary of Labor encourages employees to use DOE procedures for reporting hazardous conditions as the most expeditious means of correction.
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The Safety and Health Official for this Workplace is:

Name
Title
Location
Telephone Number

The Department of Energy's Designated Safety and Health Official is the:

Assistant Secretary for Environment, Safety and Health
1000 Independence Avenue, SW
Washington, DC 20585